



January 19, 2011

Debby Barrett, Chair  
Senate Natural Resources Committee  
State Capitol  
Helena MT

RE: Senate Bill 9:

Dear Chairman Barrett and members of the Committee

The Missoula City-County Health Department believes that this legislation is not necessary and Montana DEQ can accomplish the same goals through rule making. If SB 9 is approved by the committee, The Missoula City-County Health Department requests amendments to modify the term mixing zone to a natural attenuation zone, to ensure ongoing monitoring and to prohibit the use of State tax funds for purchasing private easements to accommodate areas of contamination in groundwater..

**Background:**

Senate Bill 9 is intended to provide Montana DEQ and the Petroleum Tank Release Compensation Board the ability to categorize petroleum releases as resolved and issue "No Further Corrective Action Required" (NFA) Letters to responsible parties when petroleum contamination may still exceed corrective levels or drinking water standards.

It is recognized that many petroleum release sites have petroleum in soil above Risk Based Corrective Action (RBCA) levels and some of these sites may have petroleum contaminated groundwater on site that exceeds DEQ-7 standards. Many of these petroleum releases are being managed as "monitored natural attenuation" or are low priority for further investigation and remediation due to the relatively small size of the release or no impact to potential receptors (drinking water wells or surface water).

**Comments:**

MCCHD agrees these type of stable releases, where soil bacteria is consuming the hydrocarbon contamination and human health and the environment is not threatened, should be eligible for some type of No Further Action status. This will allow DEQ and Petroleum Release Fund resources to be used more effectively at sites where cleanup is needed to protect drinking water or surface water supplies.

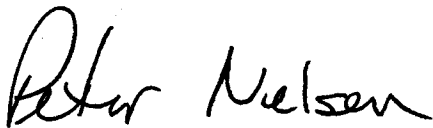
But we believe this legislation is not required and Montana DEQ can accomplish the same goals through rule making.

Mixing zones should not be permitted for accidental releases of toxic and potentially carcinogenic substances. We request the words mixing zone be replaced with "natural attenuation zone for petroleum contamination." Mixing zones are approved and granted for the continuing release of contaminants such as sewage, and typically require ongoing monitoring. Petroleum releases are not "approved actions" nor are they permitted, the release is not ongoing and it is required to be diminishing through natural attenuation. For this reason the concept of mixing zone is inappropriate for petroleum releases and adoption would set a bad precedent for other toxic substance releases in groundwater.

The bill as drafted would allow the Petroleum Release Compensation Board to purchase easements with Petro Fund Tax dollars to provide a mixing zone. Easements for contaminated zones in groundwater should not be paid for by tax dollars. In cases where such easements may be appropriate and necessary, they should be paid for by the party responsible for the contamination.

SB 9 would allow the Board to adopt rules permitting a waiver of ongoing monitoring of petroleum contamination in mixing zones. We do not support a waiver of ongoing monitoring. Natural attenuation of petroleum in groundwater should be monitored to ensure that it is occurring, or additional actions should be required to achieve cleanup and attain State water quality standards.

Sincerely,

A handwritten signature in black ink that reads "Peter Nielsen". The signature is written in a cursive, flowing style.

Peter Nielsen  
Environmental Health Supervisor